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COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 37th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 21 February 1992, at 10 a.m.

Chairman: Mr. SOLT (Hungary)

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The meeting was called to order at 11.20 a.m.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9)
(continued) (E/CN.4/1992/L.6-L.8)

Draft decision on the situation in Cambodia (E/CN.4/1992/L.6)

1. The draft decision on the situation in Cambodia was adopted without a vote.

Draft resolution on the situation in Afghanistan (E/CN.4/1992/L.7)

2. The draft resolution on the situation in Afghanistan was adopted without a vote.

Draft resolution on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination (E/CN.4/1992/L.8)

3. Mr. OFFOR (Nigeria), introducing on behalf of the African Group of States the draft resolution on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination (E/CN.4/1992/L.8), said that, according to the last report of the Special Rapporteur on the subject (E/CN.4/1992/12), and judging by the current evolution of global events, it would appear that armed conflicts in which mercenary activities were reported had been moving towards political negotiations. Nevertheless, terminating the mandate of the Special Rapporteur at the current juncture would be ill-advised. The draft resolution would renew the mandate of the Special Rapporteur to enable him to respond to the request of the General Assembly at its forty-sixth session that he should report to the Assembly at its forty-seventh session in 1992. His delegation called upon the Commission to adopt the draft resolution by consensus.

4. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that the estimated cost of extending the mandate of the Special Rapporteur would be US\$ 100,700 in 1992 and US\$ 106,800 in 1993, sums that had been included in the programme budget for the biennium, and US\$ 112,100 in 1994 and US\$ 117,700 in 1995, sums that would be taken into account when preparing the programme budget for that biennium. The cost estimates, which were based on previous patterns of expenditure, were submitted under rule 28 of the Commission's rules of procedure.

5. The draft resolution (E/CN.4/1992/L.8) was adopted without a vote.

6. Mr. CROOK (United States of America) said that his delegation wished to dissociate itself from the resolution. That was not a reflection on the Special Rapporteur but because, as his recent report had shown, armed conflicts in which mercenary activities had been significant were tending towards political negotiations and peaceful settlements and the continuation of the Special Rapporteur's mandate was not, therefore, a wise use of scarce resources. The problem of mercenaries was not comparable to other issues of fundamental human rights dealt with by the Commission on Human Rights, such as extrajudicial killings, disappearances and torture.

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (continued) (E/CN.4/1992/2, chapter I A, draft resolution I)

Draft resolution on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist regime of South Africa (E/CN.4/1992/2, chapter I A, draft resolution I)

7. At the request of the representative of the United States of America, the vote was taken by roll-call.

8. Venezuela, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Bangladesh, Barbados, Brazil, Burundi, Chile, China, Colombia, Cuba, Cyprus, Gabon, Ghana, India, Indonesia, Iran, Islamic Republic of, Iraq, Kenya, Lesotho, Libyan Arab Jamahiriya, Mauritania, Mexico, Nigeria, Pakistan, Peru, Philippines, Senegal, Somalia, Sri Lanka, Syrian Arab Republic, Tunisia, Venezuela, Yugoslavia, Zambia.

Against: Australia, Austria, Bulgaria, Canada, Czech and Slovak Federal Republic, France, Germany, Hungary, Italy, Japan, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Costa Rica, Madagascar, Russian Federation, Uruguay.

9. The draft resolution was adopted by 33 votes to 14, with 5 abstentions.

10. Ms. MATHIEU (United States of America), speaking in explanation of vote, said that, although there were still critical problems to be resolved in South Africa, her delegation believed that the Government of South Africa, the African National Congress and other parties had shown a determination to resolve them and to create a democratic, non-racial, constitutionally based South Africa in the near future. The elimination of all forms of racism and racial discrimination, including the remaining vestiges of the system of apartheid, was of the utmost importance.

11. Unfortunately, resolutions such as those commonly adopted under agenda item 6, containing unbalanced and inflammatory language, accomplished virtually nothing to encourage progress towards a democratic and non-racial society in South Africa. Her Government felt that it was indefensible to perpetuate those kinds of resolutions. It was to be hoped that the Commission on Human Rights would seek to reflect and encourage the progress of negotiations by adopting constructive and balanced resolutions in its future consideration of South Africa.

12. Mr. MALGUINOV (Russian Federation) said that his delegation had abstained on the draft resolution because new approaches were needed from the Commission on Human Rights and the United Nations as a whole towards developing events in

South Africa. The wording of the draft resolution did not reflect reality, it was unnecessarily political. If it had been possible, his delegation would have voted against certain paragraphs of the draft resolution but it had been reluctant to vote against the resolution as a whole, since it greatly appreciated the work of the Special Rapporteur over the years.

13. Mr. de BRITO CRUZ (Brazil) said that his delegation had voted in favour of draft resolution I in keeping with its traditional support for initiatives aimed at encouraging progress towards eliminating apartheid. However, in view of the changes in the situation in South Africa and the evolving relationship between that country and the international community, the Special Rapporteur's mandate was becoming increasingly anachronistic. It was to be hoped that, when that question was taken up on a future occasion, the mandate could be made more relevant to the current situation.

14. Mr. PORTALES (Chile) said that his delegation had voted in favour of draft resolution I, consistent with its policy of full support for the campaign of the South African people and the international community to abolish apartheid, despite the fact that the text ignored the historic negotiation process embarked upon by the Government of South Africa and the African National Congress. It was also regrettable that the text made no reference to other positive developments in South Africa.

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT
RACISM AND RACIAL DISCRIMINATION (agenda item 14) (continued)
(E/CN.4/1992/L.22)

Draft resolution on the implementation of the Programme of Action for the
Second Decade to Combat Racism and Racial Discrimination (E/CN.4/1992/L.22)

15. Mr. SENE (Senegal), introducing the draft resolution, said that it touched upon a crucial area in the struggle for human dignity and reaffirmed a vital principle of the Charter of the United Nations: the promotion of universal respect for human rights and fundamental freedoms for all, irrespective of race, sex, language or religion. The radical changes that the world was currently experiencing made it imperative to implement a Programme of Action that could confront racism and racial discrimination. He drew attention to the salient points covered by the draft resolution which, he hoped, would be adopted without a vote.

16. The draft resolution (E/CN.4/1992/L.22) was adopted without a vote.

17. Ms. MATHIEU (United States of America), speaking in explanation of vote, said that, in view of the momentous events of the past year and the repeal of the General Assembly resolution equating zionism with racism (3379 (XXX)), her delegation was pleased to join the consensus on the draft resolution. The United States of America renewed its commitment to the fight against racism, which it regarded as a matter of overriding importance.

18. Mr. BARKER (Australia) said that Australia's strong support for United Nations activities against racism and racial discrimination had already been expressed in his delegation's statement under item 14. His delegation

would like to contribute by helping to draft resolutions on that topic in the Economic and Social Council, in the Third Committee of the General Assembly and at future sessions of the Commission.

19. Mr. HESSEL (France) said that his delegation appreciated the efforts of the sponsors of the draft resolution and was pleased that it had been adopted without a vote. It was to be hoped that, following further work on the text, more countries would be able to join the list of sponsors on a future occasion.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING: PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT (agenda item 7) (continued) (E/CN.4/1992/L.13, L.14, L.17 and L.20; E/CN.4/1992/2-E/CN.4/Sub.2/1991/65, chapter I B, draft decision 6)

Draft resolution on the effects on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt and, in particular, on the implementation of the Declaration on the Right to Development (E/CN.4/1992/L.13)

20. Mr. FERNANDEZ PALACIO (Cuba), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegation of Senegal, mentioned its salient points and said that, in the tenth preambular paragraph, the words "inter alia, on the growth of crime and on the difficulty of guaranteeing conditions that will permit speedy and adequate administration of justice" should be deleted and replaced by the words "of a social nature". Furthermore, in operative paragraph 5, the words "agenda item" should be amended to read "agenda sub-item".

21. At the request of the representative of Cuba, a vote was taken by roll-call on draft resolution E/CN.4/1992/L.13.

22. Austria, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Argentina, Australia, Austria, Bangladesh, Barbados, Brazil, Burundi, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, France, Gabon, Ghana, India, Indonesia, Iran, Islamic Republic of, Iraq, Italy, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Mauritania, Mexico, Nigeria, Pakistan, Peru, Philippines, Portugal, Russian Federation, Senegal, Somalia, Sri Lanka, Syrian Arab Republic, Tunisia, Uruguay, Venezuela, Yugoslavia, Zambia.

Against: Japan, United States of America.

Abstaining: Bulgaria, Canada, Czech and Slovak Federal Republic, Germany, Hungary, Netherlands, United Kingdom of Great Britain and Northern Ireland.

23. The draft resolution (E/CN.4/1992/L.13) was adopted by 43 votes to 2, with 7 abstentions.

Draft resolution on the question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights (E/CN.4/1992/L.14)

24. Mrs. SANTOS PAIS (Portugal), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Madagascar and the United Kingdom of Great Britain and Northern Ireland and the observer for Sao Tome and Principe, said that the text noted the progress made by the international community with respect to the setting of standards for the realization of economic, social and cultural rights, as well as the need to improve the implementation of those standards. Having drawn attention to the salient points of the draft resolution, she said she hoped that, since it was the result of broad consultations between delegations of different regional groups, it could be adopted without a vote.

25. Mr. BLACKWELL (United States of America), speaking in explanation of vote before the vote, said that his delegation would join the consensus on the draft resolution. All categories of rights deserved to be protected, and his Government agreed with the statement in the third preambular paragraph of the draft resolution that the promotion and protection of one category of rights should never exempt or excuse States from the promotion and protection of other rights.

26. In the view of his delegation, respect for civil and political rights, free speech and free elections went hand in hand with economic progress. Civil and political rights were the birthright of mankind. They were inalienable rights that must be immediately recognized and protected by States. The free and full exercise of civil and political rights was the best way to ensure that individuals could make real progress towards achieving economic, social and cultural rights.

27. The draft resolution (E/CN.4/1992/L.14) was adopted without a vote.

Draft resolution on human rights and extreme poverty (E/CN.4/1992/L.17)

28. Mr. HESSEL (France), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Argentina, Burundi, Cuba, and Nigeria and the observers for Ecuador and Sao Tome and Principe, said that greater advantage should be taken of the experience of the poor and of those working on their behalf in the struggle for development. Democracy was too fragile to dispense with the support of any sector of society. He hoped that recognition of that fact would guide the Commission in its work.

29. The sponsors wished to add at the end of operative paragraph 3 of the draft text the words: "and to request him to ensure that these views are given the widest possible dissemination".

30. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission wished to adopt the draft resolution (E/CN.4/1992/L.17), as orally revised, without a vote.

31. It was so decided.

Draft resolution on the question of trade union rights (E/CN.4/1992/L.20)

32. Mr. STUART (Australia), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Argentina, Hungary, the Netherlands and Tunisia, said that, in its preambular paragraphs, the draft recalled the framework of international standards and underlined the important role played by ILO in the protection and promotion of trade union rights. The sponsors wished to insert the following new third preambular paragraph: "Recognizing the most important role played by trade unions in efforts to achieve social justice". In addition, in operative paragraph 3, they wished to replace the text that followed the words "popular participation" by the words "and development".

33. The draft resolution noted that trade unions could contribute significantly to the realization of effective popular participation and to the processes of development. Most importantly, it drew attention to the fact that, in many countries, those seeking to exercise their trade union rights were subject to serious violations of their fundamental human rights. Statements recently made in the Commission had provided evidence that that problem was a widespread one.

34. The draft would have the Commission appeal to all States to ensure that all persons were able to exercise their trade union rights freely and in full. Its operative paragraphs also invited States to become parties to the principal instruments which provided for trade union rights and called for the involvement of representative trade union organizations in effective processes of popular participation and development.

35. Mr. GATAN (Philippines) said that his delegation supported the draft resolution, as orally revised, on the understanding that the word "development" in operative paragraph 3 referred to "the right to development".

36. Mr. KHOURY (Syrian Arab Republic) suggested that the word "can" in the sixth preambular paragraph should be deleted and that, in the penultimate preambular paragraph, the words "right to life" should be amended to read "right to life at a decent standard of living".

37. Mr. STUART (Australia) said that he would have to discuss the amendments proposed by the representative of the Syrian Arab Republic with the other sponsors of the draft resolution.

38. Mr. KHOURY (Syrian Arab Republic) said he would not insist on his proposals.

39. Mr. RODRIGUEZ ALPIZAR (Costa Rica) said that his delegation wished to become a sponsor of the draft resolution.
40. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission wished to adopt the draft resolution (E/CN.4/1992/L.20) without a vote.
41. It was so decided.

Draft decision on the realization of economic, social and cultural rights
(E/CN.4/1992/2, chapter I B, draft decision 6)

42. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission wished to adopt the draft decision without a vote.
43. It was so decided.
44. Mr. COOK (United States of America), speaking in explanation of vote, said that his delegation had voted against draft resolution E/CN.4/1992/L.13 since, despite its deep concern about the economic problems faced by many developing countries, his Government took the view that civil and political rights and freedoms were fundamental to material well-being and to development.
45. There was no material cost involved in respecting human rights. The national debt of a country, for example, did not increase if its citizens were free to exercise their religious beliefs. His Government would therefore not support resolutions that could be used as an excuse by countries to deny basic rights in the name of the pursuit of economic goals.
46. His delegation had joined the consensus on draft resolution E/CN.4/1992/L.17 because of its deep sympathy for those who were forced to live their lives in extreme poverty. The United States had made its concern clear through government aid programmes and through the work of private organizations and individuals.
47. He wished to point out, however, that there were other United Nations bodies that were better suited to dealing with such problems. The Commission was currently addressing the question of the reform of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, one important issue being the reduction in the number of studies being made by the Sub-Commission and increased efforts to ensure that such studies served ends that were more directly related to the Sub-Commission's original mandate. He urged the Sub-Commission speedily to conclude its study on human rights and extreme poverty, as part of the process of reducing the number of studies it was carrying out.
48. His delegation had joined the consensus on draft resolution E/CN.4/1992/L.20 in order to reaffirm publicly its belief that trade unions were an important manifestation of freedom of association and were an integral link in the pattern of rights and freedoms that were essential to a vigorous and developing economy.

49. The United States believed that respect for civil and political rights, including trade union rights as well as free speech and free elections, went hand in hand with economic progress. He wished to note, however, that the International Labour Organisation provided the most appropriate forum for the discussion of trade union rights and their protection and promotion.

50. While respect for and the promotion of the full range of civil and political rights were crucial to development, his Government did not agree that there was an intrinsic human right to development, which it interpreted as an individual and societal goal.

51. Mr. MALGUINOV (Russian Federation) said that his delegation had voted in favour of draft resolution E/CN.4/1992/L.13 because of the negative effects of foreign debt on the enjoyment of economic and social rights. However, the issue of foreign debt could be more properly addressed in other United Nations bodies. Moreover, many of the provisions of draft resolution E/CN.4/1992/L.13 were also reflected in draft resolutions E/CN.4/1992/L.14 and E/CN.4/1992/L.17. It would be better if sponsors could combine resolutions so as to reduce their overall number.

52. Mr. SEZAKI (Japan) said that his delegation had voted against draft resolution E/CN.4/1992/L.13 because the Commission on Human Rights was not the appropriate United Nations body to deal with the problem of foreign debt.

53. It had joined the consensus on draft resolution E/CN.4/1992/L.20 because it attached great importance to workers' rights. However, there again, ILO was a more appropriate forum to deal with that issue and he hoped that, in the future, sponsors of draft resolutions would take into account the appropriateness of the Commission on Human Rights as a forum to address the issue in question.

The meeting rose at 12.55 p.m.